

Docket No.: 415852000800

(PATENT)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of:

Christopher J. BURNS et al.

Application No.: 10/538,499

Filed: December 11, 2003 Int'l

For: PYRAZINE-BASED TUBULIN INHIBITORS

Confirmation No.: 7053

Art Unit: 1624

Examiner: Douglas M. Willis

SUPPLEMENTAL RESPONSE UNDER 37 C.F.R. § 1.116

MS AF Commissioner for Patents P.O. Box 1450 Alexandria, VA 22313-1450

Dear Sir:

This is in further response to an Office action herein, mailed 22 October 2010, time for response to which was set to expire 22 January 2011. The rejection of claims 1, 3-8 and 10 was maintained and the rejection was made final. Claims 2 and 9 were objected to as dependent on a non-allowed claim but were considered otherwise allowable. An Advisory Action was mailed on 5 January 2011 indicating that the proposed amendment would overcome the rejection for anticipation, but that a rejection for obviousness would be maintained unless it could be shown that the invention in the cited PCT publication (WO02/060492) was derived from the inventors herein. Applicants assume that it would be equally correct to establish that the claimed invention herein is the invention solely of Burns and Wilks. A Petition to Change Inventorship under

sd-544986 1

Application No.: 10/538,499 Docket No.: 415852000800

37 C.F.R. § 1.48(b) is enclosed. Also enclosed is a Declaration under 37 C.F.R. § 1.132 in support

of this Change of Inventorship, although this Declaration is, strictly speaking, not necessary.

The undersigned is uncertain what is being suggested in the Advisory Action when it is

stated that claim 1 is objected to because, in line 1, C_{1-4} alkyl should be replaced with C_{2-4} alkyl with

respect to W to avoid issues under 35 U.S.C. § 112, paragraph 2. This was precisely the amendment

provided previously which is included and reproduced here. Entry of this amendment is

respectfully requested.

In view of the congruence of inventorship in the present application and the cited document

published less than one year prior to the date to which applicants are entitled, it is believed that the

rejections may be withdrawn, and claims 1-10 passed to issue. Rejoinder of claims 11-13 and 15-17

is also requested.

In the unlikely event that the transmittal letter is separated from this document and the Patent

Office determines that an extension and/or other relief is required, applicants petition for any

required relief including extensions of time and authorize the Commissioner to charge the cost of

such petitions and/or other fees due in connection with the filing of this document to **Deposit**

Account No. 03-1952 referencing docket No. 415852000800.

Dated: January 24, 2011

-

Respectfully submitted,

Electronic signature:

/ Kate H. Murashige /

Kate H. Murashige

Registration No.: 29,959

MORRISON & FOERSTER LLP 12531 High Bluff Drive, Suite 100

San Diego, California 92130-2040

Telephone: (858) 720-5112 Facsimile: (858) 720-5125

sd-544986 2